

House Bill 1510

By: Representatives Carter of the 175th, Black of the 174th, and Shaw of the 176th

A BILL TO BE ENTITLED
AN ACT

1 To amend and supersede the laws pertaining to the governing authority of Lowndes County;
2 to provide for a Board of Commissioners of Lowndes County; to provide for the powers and
3 composition of the board of commissioners; to provide for election districts, qualifications,
4 terms of office, and filling of vacancies of commissioners; to provide for meetings and
5 quorum; to provide for the responsibilities of the chairperson; to provide for a vice
6 chairperson and the vice chairperson's responsibilities; to provide for oaths, bonds, budgets,
7 audits, county manager, clerk, minutes, and compensation and expenses of commissioners;
8 to provide for submission pursuant to Section 5 of the federal Voting Rights Act of 1965, as
9 amended; to provide for severability and effective dates; to provide for the repeal of existing
10 enabling legislation; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 The Board of Commissioners of Lowndes County ('the board') which existed on
14 January 1, 2009, is continued in existence as the governing authority of Lowndes County,
15 but, on and after January 1, 2013, shall be constituted as provided in this Act.

16 **SECTION 2.**

17 The board shall have the power and authority to fix and establish by appropriate resolution
18 entered on its minutes, policies, rules, and regulations governing all matters reserved to the
19 jurisdiction of the board. Such policies, rules, and regulations, when so adopted with proper
20 entry thereof made on the minutes of the board, shall be conclusive and binding. The board
21 shall exercise only those administrative powers which are necessarily and properly incident
22 to its functions as a policy-making or rule-making body or which are necessary to compel
23 enforcement of its adopted resolutions. The following powers are vested in the board and
24 reserved to its exclusive jurisdiction:

25 (1) To levy taxes;

- (2) To fix fees;
- (3) To make appropriations;
- (4) To fix rates and charges for services provided by the county;
- (5) To authorize the incurring of indebtedness;
- (6) To order work done where the cost is to be assessed against benefited property and to fix the basis for such assessment;
- (7) To authorize and provide for the execution of contracts;
- (8) To establish, alter, open, close, build, repair, or abolish public roads and bridges, according to law; provided, however, that the chairperson shall have the authority to adopt subdivision plats when the requirement established by the board for subdivisions is met;
- (9) To accept for the county the provisions of any optional statute where the statute permits its acceptance by the governing authority of the county;
- (10) To exercise all powers, duties, and authority in respect to zoning and planning;
- (11) To create and change the boundaries of special taxing districts authorized by law;
- (12) To fix the bonds of county officers where same are not fixed by statute;
- (13) To enact any ordinances or other legislation which the county may be given authority to enact;
- (14) To determine the priority of capital improvements;
- (15) To call elections for the voting of bonds;
- (16) To appoint retained legal counsel and an independent county auditor and provide for their compensation;
- (17) To exercise all of the power and authority which is or may be vested in the board by the Constitution or laws of this state; and
- (18) To exercise all power and authority formerly vested in the board.

SECTION 3.

- (a) On and after January 1, 2013, the board shall consist of six members, five of whom shall be elected from commissioner districts described in subsection (b) of this section and the sixth of whom shall be the chairperson who is elected at large.
- (b) For purposes of electing members of the board other than the chairperson, there are hereby created five commissioner districts for Lowndes County. For purposes of creating Commissioner Districts 1, 2, and 3, Lowndes County is divided into three commissioner districts. One member of the board shall be elected from each such district. Commissioner Districts 1, 2, and 3 shall be and correspond to those three numbered districts as they existed on January 1, 2009, and as described in the districting plan attached to and made a part of this Act and further identified as Plan Name: lowndescwk9r Plan Type: Local User: Blake

62 Administrator: Lowndes. For purposes of creating Commissioner Districts 4 and 5, Lowndes
63 County is divided into two commissioner districts which shall overlay Commissioner
64 Districts 1, 2, and 3. One member of the board shall be elected from each such district.
65 Commissioner Districts 4 and 5 shall be and correspond to those two numbered districts as
66 described in the districting plan attached to and made a part of this Act and further identified
67 as Plan Name: lowndescsupp3 Plan Type: Local User: reapp Administrator: Lowndes.

68 (c) When used in such attachments, the terms 'Tract' and 'BG' (Block Group) shall mean and
69 describe the same geographical boundaries as provided in the report of the Bureau of the
70 Census for the United States decennial census of 2000 for the State of Georgia. The separate
71 numeric designations in a tract description which are underneath a 'BG' heading shall mean
72 and describe individual blocks within a block group as provided in the report of the Bureau
73 of the Census for the United States decennial census of 2000 for the State of Georgia. Any
74 part of Lowndes County which is not included in Commissioner District 1, 2, or 3 as
75 described in that attachment describing Commissioner Districts 1, 2, and 3 shall be included
76 within that district contiguous to such part which contains the least population according to
77 the United States decennial census of 2000 for the State of Georgia. Any part of Lowndes
78 County which is described in that attachment describing Commissioner Districts 1, 2, and 3
79 as being in Commissioner District 1, 2, or 3 shall nevertheless not be included within such
80 district if such part is not contiguous to such district. Such noncontiguous part shall instead
81 be included within that Commissioner District 1, 2, or 3 contiguous to such part which
82 contains the least population according to the United States decennial census of 2000 for the
83 State of Georgia. Any part of Lowndes County which is not included in Commissioner
84 District 4 or 5 as described in that attachment describing Commissioner Districts 4 and 5
85 shall be included within that district contiguous to such part which contains the least
86 population according to the United States decennial census of 2000 for the State of Georgia.
87 Any part of Lowndes County which is described in that attachment describing Commissioner
88 Districts 4 and 5 as being in Commissioner District 4 or 5 shall nevertheless not be included
89 within such district if such part is not contiguous to such district. Such noncontiguous part
90 shall instead be included within that Commissioner District 4 or 5 that is contiguous to such
91 part which contains the least population according to the United States decennial census of
92 2000 for the State of Georgia. Except as otherwise provided in the description of any
93 commissioner district, whenever the description of such district refers to a named city, it shall
94 mean the geographical boundaries of that city as shown on the census map for the United
95 States decennial census of 2000 for the State of Georgia.

SECTION 4.

(a) No person shall be a member of the board if that person is ineligible for such office pursuant to Code Section 45-2-1 of the O.C.G.A. or any other general law applicable to that office.

(b) In order to be elected or appointed as a member of the board from a commissioner district, a person must have that person's legal residence in that district and, if elected, must receive the number of votes cast as required by general law for that office in that district only and not at large. Only electors who are residents of that commissioner district may vote for a member of the board for that district. At the time of qualifying for election as a member of the board from a commissioner district, each candidate for such office shall specify the commissioner district for which that person is a candidate. A person elected or appointed as a member of the board from a commissioner district must continue to reside in that district during that person's term of office or that office shall become vacant.

(c) The member of the board who is chairperson of the board may reside anywhere within Lowndes County and, if elected, must receive the number of votes cast for that office as required by general law in the entire county. The chairperson must continue to reside within the county during that person's term of office or that office shall become vacant.

SECTION 5.

(a) Those members of the board who are serving as chairperson and district representative for Commissioner District 1 on December 31, 2010, and any person selected to fill a vacancy in any such office shall continue to serve as such members until the regular expiration of their respective terms of office, which shall expire on December 31, 2012, and upon the election and qualification of their respective successors. Those members of the board who are elected in the November, 2010, general election and take office as district representatives for Commissioner Districts 2 and 3 on January 1, 2011, and any person selected to fill a vacancy in any such office shall continue to serve as such members until the regular expiration of their respective terms of office, which shall expire on December 31, 2014, and upon the election and qualification of their respective successors.

(b) The members of the reconstituted board shall be elected as provided in this subsection. The first members of the reconstituted board elected under this Act shall be elected at the November general election on the Tuesday next following the first Monday in November, 2012. The members of the board elected thereto as district representatives from Commissioner Districts 1 and 5 and the chairperson in 2012 shall take office the first day of January immediately following that election and shall serve for initial terms of office which expire December 31, 2016, and upon the election and qualification of their respective successors. The member of the board elected thereto as district representative from

Commissioner District 4 in 2012 shall take office the first day of January immediately following that election and shall serve for an initial term of office which expires December 31, 2014, and upon the election and qualification of his or her respective successor. The members of the board elected thereto as district representatives from Commissioner Districts 2, 3, and 4 elected in 2014 shall take office the first day of January immediately following that election and shall serve for terms of office which expire December 31, 2018, and upon the election and qualification of their respective successors. All future successors to members of the board whose terms of office are to expire shall be elected at the time of the November general election immediately preceding the expiration of such terms, shall take office the first day of January immediately following that election, and shall serve for terms of office of four years each. Members of the board shall serve for the terms of office specified therefor in this subsection and until their respective successors are elected and qualified.

(c) All members of the board who are elected thereto shall be nominated and elected in accordance with Chapter 2 of Title 21 of the O.C.G.A., the 'Georgia Election Code.'

(d) Commissioner Districts 1, 2, and 3, as they existed on January 1, 2009, shall continue to be designated as Commissioner Districts 1, 2, and 3, respectively, but as newly described under this Act, and on and after the date this Act becomes effective such members of the board who are district representatives serving from those former commissioner districts shall continue to serve from and represent their respective districts as newly described under this Act.

SECTION 6.

When a vacancy occurs on the board under the laws of this state and the unexpired term of office exceeds six months in duration, it shall be the duty of the election superintendent of the county to call a special election to elect a successor and fill the vacancy in not less than 30 nor more than 60 days. The election shall be held as provided by the Georgia Election Code, and the cost of the election shall be defrayed by proper county authorities. If the unexpired term to be filled is six months or less in duration in the case of the term of a district representative, the chairperson shall nominate and the board shall approve a successor to fill the unexpired term, and in the case of the term of the chairperson, the remaining members of the board shall elect a successor to fill the unexpired term of the chairperson. Persons elected or appointed to fill a vacancy in office shall serve out the unexpired term and until a successor is elected and qualified.

SECTION 7.

The board shall hold a minimum of one regular meeting per month for the transaction of business as may legitimately come before it. The board may convene in special meetings on the call of the chairperson, as the business of the board may require. The district representatives may at any time convene a special meeting of the board upon call by any one of them as the business of the board may require, provided the chairperson is unable or fails to call such meeting upon request.

SECTION 8.

The chairperson and any three district members shall constitute a quorum. In the absence of the chairperson, any four district representatives shall constitute a quorum.

SECTION 9.

The chairperson shall be the official head of the board. The chairperson shall cause an agenda to be established for and preside at all meetings of the board unless absent. The chairperson shall have all the rights, powers, duties, and responsibilities of a member of the board, including the right and power to make motions and nominations, except that the chairperson shall not vote on matters before the board except to express unanimity or where there is an equal division on the question. The chairperson may serve as a member of boards, commissions, and committees required by law or requested by the board and shall perform such other duties as may be required by law.

SECTION 10.

The board shall elect one of the district representatives to serve as vice chairperson. The vice chairperson shall cause an agenda to be established for and preside at all meetings at which the chairperson is absent. In such event, the vice chairperson shall retain all of his or her rights, duties, powers, and responsibilities as a district representative, including the right to make motions and to vote on matters before the board.

SECTION 11.

Before entering upon the discharge of their duties, the chairperson and district representatives shall subscribe to an oath for the true and faithful performance of their duties and that they are not the holders of any unaccounted for public funds.

SECTION 12.

The chairperson shall give a satisfactory surety bond, as determined by the judge of the Probate Court of Lowndes County, and payable to the judge of the Probate Court of Lowndes County and filed in the office of the judge of the Probate Court of Lowndes County, in the sum of \$50,000.00, conditioned upon the faithful performance of the duties of the office. Each representative shall give like bond in the sum of \$25,000.00. The costs of said bonds shall be paid from county funds.

SECTION 13.

The board shall adopt and operate under annual budgets in accordance with the laws of this state.

SECTION 14.

The board shall provide for and cause to be made annual audits in accordance with the laws of this state.

SECTION 15.

The board may create in and for Lowndes County the office of county manager and vest in such office powers, duties, and responsibilities of an administrative nature in accordance with the laws of this state.

SECTION 16.

The board may appoint a clerk in and for Lowndes County consistent with the laws of this state. The clerk shall be a resident of Lowndes County. Before entering upon the discharge of his or her duties, the clerk shall give a satisfactory surety bond, as determined by the judge of the Probate Court of Lowndes County, and payable to the judge of the Probate Court of Lowndes County and filed in the office of the judge of the Probate Court of Lowndes County, in the sum of \$50,000.00, conditioned upon the faithful performance of his or her duties as clerk and to account for any and all funds, property, or effects which may come into his or her hands as clerk or otherwise. The costs of such bond shall be paid from county funds.

SECTION 17.

The board shall cause minutes of its meetings to be kept in accordance with the laws of this state.

SECTION 18.

Salaries, compensation, expenses, and expenses in the nature of compensation to which members of the board serving on the effective date of this Act are currently entitled shall continue in full force and effect. Salaries, compensation, expenses, and expenses in the nature of compensation to which members of the board are thereafter entitled shall be fixed pursuant to the laws of this state.

SECTION 19.

The governing authority of Lowndes County shall through its legal counsel cause this Act to be submitted for preclearance under the federal Voting Rights Act of 1965, as amended; and such submission shall be made no later than 45 days after the date on which this Act is approved by the Governor or otherwise becomes law without such approval.

SECTION 20.

Unless prohibited by the federal Voting Rights Act of 1965, as amended, this Act shall become effective on the first day of the month following the month in which it is approved by the Governor or in which it becomes law without such approval for the purpose of conducting the election of members of the board at the November, 2012, general election as provided in Section 5 of this Act and shall become effective for all purposes on January 1, 2013.

SECTION 21.

In the event any provision of this Act is unconstitutional or cannot be implemented under federal law, the remaining provisions of this Act shall remain valid and of full force and effect.

SECTION 22.

(a) The Act continuing the Board of Commissioners of Lowndes County, Georgia, approved June 3, 2003 (Ga. L. 2003, p. 4492), shall be repealed on January 1, 2013.
(b) The Act to amend and supersede the laws pertaining to the governing authority of Lowndes County, approved May 11, 2009 (Ga. L. 2009, p. 3877), shall be repealed on July 1, 2010.

SECTION 23.

All laws and parts of laws in conflict with this Act are repealed.